

REMARKS

Applicant appreciates the Examiner's review of the above-identified patent application and respectfully requests reconsideration and allowance in view of the above amendments and following remarks. Applicant's Representative also appreciates the Examiner's time and effort in discussing the present application with Applicant's Representative.

With this amendment, independent claims 1, 7, and 15 have been amended and claims 20-22 have been added. Applicant submits that newly added claims 20-22 are substantially the same as previously canceled claims 3, 8, and 16, respectively. In view of the above amendments and following remarks, Applicant respectfully submits that all pending claims are in condition for allowance. Early and favorable action is respectfully requested.

Claims 1-2, 4-7, 9-15, and 17-19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cambray et al. (U.S. Patent No. 5,278,898, hereinafter referred to as "Cambray") in view of Friedes et al. (U.S. Patent No. 5,311,572, hereinafter referred to as "Friedes") and Brady (U.S. Patent No. 6,173,052, hereinafter referred to as "Brady"). Applicant respectfully

traverses this rejection.

Independent claims 1, 7, and 15 have been amended to recite, generally, that the plurality of calls in the hold queue are prioritized based on at least the retrieved call prioritizing information specific to a customer which is received from the customer database. Applicant respectfully submits that none of the references cited alone, or in combination, disclose or suggest this limitation.

As discussed previously, Cambray does not disclose or suggest using caller identifying information to retrieve information regarding previous transactions with that specific client from a database and then utilizing this information to establish call prioritization for calls in a hold queue. For example, Cambray discloses prioritizing the calls in the hold queue based on the "age" of the call, i.e., the amount of time that the call has been "on hold". The "age" of the call is then used generically to prioritize the call, e.g., using a First In First Out (FIFO) or Last In First Out (LIFO) type of hold queue. See Cambray, column 3, lines 15-16. The "age" of the call is dynamically generated during the call and is not derived from, nor could be modified to be derived from, a previous transaction with the customer. While

the "age" of the call is useful for prioritizing a call, it still ignores the fact that each customer is unique (i.e., is likely to remain on hold for a different amount of time) because it does not include any information relevant to previous transactions with that *specific* client which may be known and which may be used to determine the amount of time that the *specific* customer is likely to remain on hold. Instead, the "age" of the call is simply a guideline based on the overall or average hold time.

Cambray also discloses monitoring the length of time customers remains on hold in the hold queue before hanging-up and utilizing that information to dynamically alter or generate new priority criteria. See Cambray, column 4, lines 1-10. Alternatively, Cambray discloses that that the priority criteria may be based on an event such as a hold message being played. However, this information (i.e., the length of time customers in general remain on hold and the playing of hold messages) is not specific to a particular customer, but rather is generalized information obtained from all previous calls.

Again, while this information is useful for prioritizing calls, it still ignores the fact that each customer is unique (i.e., is likely to remain on hold for a different amount of time)

because it does not include any information relevant to previous transactions with that *specific* client which may be known and which may be used to determine the amount of time that the *specific* customer is likely to remain on hold. The fact that the average customer is willing to remain on hold for 2 minutes, while helpful, does not accurately predict how long a specific customer is likely to remain on hold.

Applicant respectfully submits that Friedes does not disclose or suggest the limitations missing from Cambray. Friedes discloses a solution for routing calls to different locations using information stored in two or more databases. See, for example, Friedes, Abstract. Friedes does not disclose prioritizing calls in a hold queue based on information derived from previous transactions. Routing calls to different locations and prioritizing calls in a hold queue are different. Therefore, Friedes does not disclose or suggest the elements missing from Cambray, and the combination of Cambray and Friedes does not disclose or suggest the claimed combination.

The only references to "queues" in Friedes is on column 16, line 7 (wherein Friedes discloses that the number of calls in a queue at a given time for a specific location can be used to

determine where to route an incoming call) and on column 17, line 51 (wherein Friedes discloses that a call can be sent to a queue during peak traffic periods).

Accordingly, if Cambray and Friedes were combined, as suggested by the Examiner, Applicant submits that the resulting combination would place the calls in a hold queue, prioritize the calls based on the "age" of the calls or the occurrence an event (e.g., a message being played), and then ROUTE the calls in the hold queue to different locations based on information stored in two or more databases or, alternatively, ROUTE the calls in the hold queue to different locations based on the number of calls in a queue at a given time for a specific location. In essence, if one skilled in the art were motivated to combine the two references (which Applicant traverse), the only logical combination of Cambray and Friedes would be to place a call into a hold queue, and then route the call since neither reference includes any suggestion or motivation, whatsoever, of any other combination.

Applicant respectfully submits that the combination of Cambray and Friedes as suggested by the Examiner in the Final Office Action dated February 2, 2004 is an improper legal

conclusion of obviousness AND an improper factual combination of the references. Applicant respectfully reminds the Examiner that Friedes does not simply disclose retrieving information pertinent to previous transactions with a customer. It is improper to boil-down Friedes to this single feature, rather Friedes **MUST** be read as a whole. See MPEP § 2143.03 ("A prior art reference must be considered in its entirety, i.e., as a whole". Emphasis original.). Applicant also reminds the Examiner that Applicant is not claiming simply the concept of simply retrieving information pertinent to previous transactions with a customer, but rather the use of this information for prioritizing a hold queue.

When read as a whole, Friedes clearly discloses a solution for ROUTING calls that includes retrieving pertinent customer information from a database. To pick and choose from *all* the elements and steps discussed in Friedes the single act of retrieving from a database customer information without regard to routing calls, as suggested by the Examiner, and then combining this *specific* aspect of Friedes with Cambray would require one to read Friedes in a vacuum and, in effect, ignore the fact that Friedes discusses retrieving information about customers ONLY in respect to ROUTING calls.

Next, to arrive at the combination as suggested by the Examiner, one must ignore the essential features of Cambray, i.e., using the "age" of a call or other "events" (such as the playing of a message) to prioritize calls in a hold queue, and replace the essential features of Cambray with the act "snipped" from Friedes.

One skilled in the art could ONLY arrive at this combination if one INHERENTLY relies on the Applicant's disclosure to provide the motivation to (1) pick the specific act of retrieving information about a customer from a database from the entire disclosure of Friedes; and (2) replace the essential element of Cambray (i.e., how to prioritize calls in a hold queue). As stated previously, there is nothing in either Cambray or Friedes to suggest WHY one would be motivated to make the alleged combination.

Applicant respectfully submits that the Examiner's conclusion of obviousness is an improper factual combination and an improper legal conclusion. Rather, a proper conclusion of obviousness requires that there be a motivation, separate and independent from the Applicant's disclosure, for the alleged combination. Applicant submits that this motivation is missing.

Accordingly, Applicant respectfully submits that the pending claims, as amended, are in condition for allowance. Early and

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Filed: December 2, 1998
Serial No.: 09/203,965
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favorable action is respectfully requested. The Examiner is invited to telephone the undersigned, Applicant's Attorney of Record, to facilitate advancement of the present application.

Respectfully submitted,

Gene W. Lee

By Paul J. Kroon Jr.
Paul J. Kroon, Jr. Esq.
Registration No. 51,902
Attorney for Applicant

BOURQUE & ASSOCIATES, P.A.
835 Hanover Street, Suite 301
Manchester, New Hampshire 03104

Telephone: (603) 623-5111
Facsimile: (603) 624-1432

Date: June 11, 2004